

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:24-cv-20522-LEIBOWITZ/ELFENBEIN

VICTOR PORFIRIO BALOA DIAZ  
and PORFI MUSIC, LLC,

*Plaintiffs,*

*v.*

EDI KORTA, LLC, *et al.*,

*Defendants.*

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**ORDER**

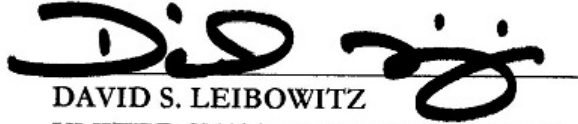
**THIS CAUSE** comes before the Court on a *sua sponte* review of the record. In this Court's August 1, 2024, Order Adopting Magistrate Judge Elfenbein's Report and Recommendation, the Court ordered Plaintiffs to "file a motion for leave to file an Amended Complaint, with a copy of the Amended Complaint attached that cures the deficiencies identified by Magistrate Judge Elfenbein in the Report and Recommendation," no later than August 16, 2024. [ECF No. 34 at 2]. The Court warned that failure to do so may result in the Court dismissing and closing this case. *Id.*

On August 16, 2024, Plaintiffs filed an Amended Complaint. [ECF No. 36]. By doing so, Plaintiffs failed to comply with this Court's Order requiring Plaintiffs to file a motion for leave to file an Amended Complaint. The Federal Rules of Civil Procedure permit the Court to dismiss an action for failure to comply with its orders. Fed. R. Civ. P. 41(b); *see also Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) ("While dismissal [under Rule 41(b)] is an extraordinary remedy, dismissal upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion.").

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Plaintiffs' Amended Complaint [ECF No. 36] is **STRICKEN**. Plaintiffs shall file a motion for leave to file an Amended

Complaint, with a copy of the Amended Complaint attached that cures the deficiencies identified by Magistrate Judge Elfenbein in the Report and Recommendation, **no later than August 23, 2024**. Plaintiffs shall also show cause in writing why this Court should not dismiss this action for failure to comply with Court order **no later than August 26, 2024**.

**DONE AND ORDERED** in the Southern District of Florida on August 19, 2024.

  
DAVID S. LEIBOWITZ  
UNITED STATES DISTRICT JUDGE

cc: counsel of record